

the employer.” The 20 percent is computed on the basis of the hours worked by nonexempt employees of the employer who perform the kind of nonexempt work performed by the outside salesman. If there are no employees of the employer performing such nonexempt work, the base to be taken is 40 hours a week, and the amount of nonexempt work allowed will be 8 hours a week.

§ 541.508 Trainees, outside salesmen.

The exemption is applicable to an employee employed in the capacity of outside salesman and does not include employees training to become outside salesmen who are not actually performing the duties of an outside salesman (see also § 541.506).

SPECIAL PROBLEMS

§ 541.600 Combination exemptions.

(a) The divisions’ position under the regulations in subpart A of this part permits the “tacking” of exempt work under one section of the regulations in subpart A to exempt work under another section of those regulations, so that a person who, for example, performs a combination of executive and professional work may qualify for exemption. In combination exemptions, however, the employee must meet the stricter of the requirements on salary and nonexempt work. For instance, if the employee performs a combination of an executive’s and an outside salesman’s function (regardless of which occupies most of his time) he must meet the salary requirement for executives. Also, the total hours of nonexempt work under the definition of “executive” together with the hours of work which would not be exempt if he were clearly an outside salesman, must not exceed either 20 percent of his own time or 20 percent of the hours worked in the workweek by the nonexempt employees of the employer, whichever is the smaller amount.

(b) Under the principles in paragraph (a) of this section combinations of exemptions under the other sections of the regulations in subpart A of this part are also permissible. In short, under the regulations in subpart A, work which is “exempt” under one sec-

tion of the regulations in subpart A will not defeat the exemption under any other section.

§ 541.601 Special provision for motion picture producing industry.

Under § 541.5a, the requirement that the employee be paid “on a salary basis” does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$250 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under §§ 541.1, 541.2, or § 541.3 and who is employed at a base rate of at least \$250 a week is exempt if he is paid at least prorata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least \$250 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least \$250 and his daily base rate is at least one-sixth of such weekly base rate. The higher minimum salary tests will be effective on April 1, 1975.

[40 FR 7094, Feb. 19, 1975]

EFFECTIVE DATE NOTE: Section 541.601 was revised at 46 FR 3016, Jan. 13, 1981. In accordance with the President’s Memorandum of January 29, 1981 (46 FR 11227, Feb. 6, 1981), the effective date was postponed indefinitely at 46 FR 11972, Feb. 12, 1981.

The text of § 541.601 set forth above remains in effect pending further action by the issuing agency. The text of the postponed regulation appears below.

§ 541.601 Special provision for motion picture producing industry.

Under § 541.5a, the requirement that the employee be paid “on a salary basis” does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$320 per week beginning February 13, 1981 and \$345 per week beginning February 13, 1983 (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under § 541.1, § 541.2, or § 541.3 and who is employed at a base rate of at least \$320 per week beginning February 13, 1981 and \$345 per